



Texas Commission on Environmental Quality

PO Box 13087, MC-160, Austin, Texas 78711-3087

Telephone (512) 239-4691, FAX (512) 239-4770

APPLICATION FOR AMENDMENT TO A WATER RIGHT

Notice: This form will not be processed until all delinquent fees and/or penalties owed to the TCEQ or the Office of the Attorney General on behalf of the TCEQ are paid in accordance with the Delinquent Fee and Penalty Protocol.

Customer Reference Number (if issued): CN601098536

Note: If you do not have a Customer Reference Number, complete Section II of the Core Data Form (TCEQ-10400) and submit it with this application.

1. Name: Nacogdoches County

Address: 101 West Main Street

Nacogdoches, Texas 75961

Phone Number: (936) 560-7755 Fax Number: (936) 560-7841

Email Address: cojudge@co.nacogdoches.tx.us

2. Applicant owes fees or penalties?

☐ Yes ☒ No

If yes, provide the amount and the nature of the fee or penalty as well as any identifying number

3. ☒ Permit No. 5585 ☐ Certificate of Adjudication No. _____

Stream: Nacogdoches Creek Watershed: Neches

Reservoir (present condition, if one exists): Lake Nacogdoches (Good)

County: Nacogdoches

4. Proposed Changes To Water Right Authorizations:

Amend water right to add municipal, agricultural, and industrial purposes of use. Also, amend water right to add a diversion point on the perimeter of Lake Nacogdoches for diversion of up to 4,750 acre-feet on an annual basis.
(Attach additional page as necessary, attach map/plot depicting project location, diversion point, place of use, and other pertinent data).

5. I understand the Agency may require additional information in regard to the requested amendment before considering this application.

Name (sign) Mike Perry

Name (sign) _____

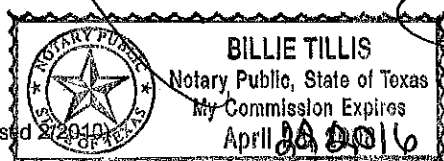
Mike Perry
Nacogdoches County Judge

Name (print) Mike Perry

Name (print) _____

Subscribed and sworn to me as being true and correct before me this 10th day of

June, 2015



Billie Tillis
Notary Public, State of Texas

Supplemental Diversion Point Information Sheet

Diversion Point No. 1.

1) Watercourse: Naconiche Creek

2) Location of point of diversion at on the perimeter of the existing Lake Naconiche. Reservoir location is in Nacogdoches County, Texas as described in the Supplemental Dam/Reservoir Sheet.

3) Location from County Seat: Varies miles in a northeast direction from Nacogdoches, Nacogdoches County, Texas.

Location from nearby town (if other than County Seat): _____ miles in a _____ direction from _____, a nearby town shown on county highway map.

4) Zip Code: 75946

5) The diversion will be (check (√) all appropriate boxes and if applicable, indicate whether existing or proposed):

	Directly from stream	Existing	Proposed
	From an on-channel reservoir	X	
	From a stream to an off-channel reservoir		
	From a stream to an on-channel reservoir		
	From an off-channel reservoir		
	Other method (explain fully, use additional sheets if necessary)		

6) Rate of Diversion (Check (√) applicable provision):

☒ 1. Diversion Facility:

A. 11,771 Maximum gpm (gallons per minute)

1) Unknown Number of pumps

2) Unknown Type of pump

3) Unknown gpm, Pump capacity of each pump

4) Portable pump Yes or ☒ No

 2. If by gravity:

A. Headgate Diversion Dam Maximum gpm

B. Other method (explain fully - use additional sheets if necessary)

7) The drainage area above the diversion point is 17,453 acres or 27.27 square miles.

Supplemental Dam/Reservoir Information Sheet

Dam (structure), Reservoir and Watercourse Data

A. Type of Storage Reservoir (Indicate by checking (✓) all applicable)

☒ on-channel ☐ off-channel ☐ existing structure ☐ proposed structure* ☐ exempt structure**

*Applicant shall provide a copy of the notice that was mailed to each member of the governing body of each county and municipality in which the reservoir, or any part of the reservoir, will be located as well as copies of the certified mailing cards.

**TWC Section 11.143 for uses of water for other than domestic, livestock, or fish and wildlife from an existing, exempt reservoir with a capacity of 200 acre-feet or less. Please complete Paragraph 6 below if proceeding under TWC 11.143.

Date of Construction 2006

B. Location of Structure No. 1.

1) Watercourse: Nacogdoches Creek

2) Location from County Seat: 13 miles in a northeast direction from Nacogdoches,
Nacogdoches County, Texas.

Location from nearby town (if other than County Seat): _____ miles in a _____ direction from
_____, a nearby town shown on county highway map.

3) Zip Code: 75946

4) The dam will be/is located in the William C. Walker, and Maria D. Castro Original Survey
Nos. 347, Abstract No. 596 and 133 in Nacogdoches County, Texas.

5) Station 0+00 on the centerline of the dam is N 27 W° (bearing), 2650 feet
(distance) from the southwest corner of Maria D. Castro Original
Survey No. 347, Abstract No. 133, in Nacogdoches County, Texas, also
being at Latitude 31.7708°N, Longitude 94.5694°W. (From Permit 5585).

C. Reservoir:

1) Acre-feet of water impounded by structure at normal maximum operating level: 9,072 acre-feet

2) Surface area in acres of reservoir at normal maximum operating level: 692 acres

D. The drainage area above the dam is 17,453 acres or 27.27 square miles.

E. Other:

1) If this is a U.S. Natural Resources Conservation Service (NRCS) (formerly Soil Conservation Service (SCS)) floodwater-retarding structure, provide the Site No. 23A and watershed project name Attoyac Bayou Watershed

2) Do you request authorization to close the "ports" or "windows" in the service spillway?

☐ Yes ☒ No

**SUPPLEMENT TO APPLICATION TO AMEND
WATER USE PERMIT NO. 5585
NACOGDOCHES COUNTY, TEXAS**

**PURSUANT TO
TEXAS WATER CODE §§ 11.122**

In addition to the TCEQ Application Form (Form 10201) (the "Application"), a narrative description of the amendment sought by this Application is provided below. The following documents are also attached as Exhibits to this Application:

1. Application fee
2. Supplement to Application Prepared by Freese & Nichols, which includes a Vicinity Map, USGS Topographic Map, and Water Use Permit No. 5585
3. Resolution Authorizing Filing of Application
4. Diversion Point Information Sheet
5. Supplemental Dam/Reservoir Information Sheet

I. Background Information

Nacogdoches County (the "County") owns Water Use Permit No. 5585 (the "Permit"), which authorizes storage of up to 9,072 acre-feet of water for flood control and recreational purposes. A copy of the Permit is attached hereto in Exhibit 2, Appendix C.

Pursuant to Section 11.122 of the Texas Water Code, the County hereby seeks to amend the Permit to add municipal, agricultural, and industrial purposes of use. The County also seeks to amend the Permit to add a diversion point anywhere along the perimeter of Lake Naconiche for diversion of up to 4,750 acre-feet of water on an annual basis.

On April 14, 2015, the County adopted a resolution authorizing the filing of this Application. A copy of the County's resolution is attached hereto as Exhibit 3.

II. Applicant Information

Name of Applicant:	Nacogdoches County
Address:	101 W. Main Street, Suite 101, Nacogdoches, TX 75961
Principal Contact:	Honorable Mike Perry
Telephone:	(936) 560-7755
Fax:	(936) 560-7841

III. Source of Supply

The source of water associated with the Application is Naconiche Creek.

IV. Amount and Purpose of Diversion and Use

The County seeks to amend the Permit to add municipal, industrial, and agricultural purposes of use. The City also seeks to add a diversion point on the perimeter of Lake Naconiche for diversion of up to 4,750 acre-feet of water annually. A vicinity map and USGS topographic map are attached as Exhibit 2, Figure 1-1 and Appendix A, respectively.

V. Diversion Information

The County seeks to add a diversion point anywhere along the perimeter of Lake Naconiche. Exhibit 4 contains the Supplemental Diversion Point Information Sheet for the diversion sought by this Application. A vicinity map and USGS topographic map are attached as Exhibit 2, Figure 1-1 and Appendix A, respectively.

VI. Water Conservation and Drought Contingency and Avoidance of Waste

As defined in both 30 TAC §295.9 and Texas Water Code §11.002(8), "conservation" means those practices that will "reduce the consumption of water, reduce the loss or waste of water, *improve the efficiency in the use of water*, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses." (emphasis added). The County has an acute awareness of the need to conserve its water supplies. By amending the Permit to allow the County to utilize the full 9,067 acre-feet impoundment for the additional municipal, agricultural, and industrial purposes of use, the County will have the flexibility to more efficiently utilize its water supplies. Such efficiency will allow the County to address its water supply needs in a manner that will allow it to avoid waste, maximize its beneficial use of water, and achieve water conservation.

VII. Administrative Requirements and Fees

The Application provides relevant information to address the administrative requirements of 30 TAC §295, Subchapter A and the requirements of Texas Water Code Chapter 11. In accordance with 30 TAC §295.131 and other TCEQ rules relating to fees, the County is submitting payment of \$101.25 with this Application attached hereto as Exhibit 1. With the filing of this Application, the County requests a determination of any additional fees that may be required. Upon receipt of such determination, the County will forward such fees to the TCEQ.

VIII. Beneficial Use

Texas Water Code §11.134(b)(3)(A) requires that proposed appropriations of water be intended for a beneficial use. The "beneficial use" of water is defined in Texas Water Code §11.002(4) and 30 TAC §297.1(8) as the use of water "which is economically necessary for a purpose authorized by [Chapter 11 of the Texas Water Code]."

A "municipal" purpose of use is identified in Texas Water Code § 11.023 as a purpose for which water may be diverted and beneficially used and is defined in 30 TAC § 297.1(32) to include "the use of potable water within a community or municipality and its environs for domestic, recreation, commercial, or industrial purposes or for the water of golf courses, parks and parkways, or the use of reclaimed water in lieu of potable water for the preceding purposes."

An "agricultural" purpose of use is identified in Texas Water Code § 11.023 as a purpose for which water may be diverted and beneficially used and is defined in TAC § 297.1(2) as "any use or activity involving agriculture, including irrigation," with "agriculture" being further defined under 30 TAC § 297.1(1).

An "industrial" purpose of use is also identified in Texas Water Code § 11.023 as a purpose for which water may be diverted and beneficially used and is defined in 30 TAC § 297.1(24) to include "the use of water in processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, including the development of power by means other than hydroelectric, but does not include agricultural use."

IX. Public Welfare

The proposed amendment will allow the County to provide water for beneficial use, as defined by the Texas Water Code. Such action is not detrimental to the public welfare. Indeed, the proposed amendment will benefit the public welfare as it will improve the County's abilities to more efficiently utilize existing water supplies to address multiple demands for water, specifically municipal, agricultural, and industrial demands for water.

The proposed amendment will not result in environmental impacts or impacts on environmental flow standards. The proposed addition of municipal, agricultural, and industrial purposes of use will not result in the diversion or consumption of any additional water supplies, but will allow the County to make the most efficient use of existing water supplies. As such, the proposed amendment is not detrimental to the public welfare.

X. Consistency with State and Regional Water Plans

The County is located within the Region I Water Planning Group.¹ According to the State Water Plan, *Water for Texas 2012*, the population in Region I is expected to increase by thirty six percent (36%) from 2010 to 2060.² The State Water Plan indicates a current and future demand for Region I for municipal, agricultural and industrial uses.³ Additionally, the Region I Water Plan includes a recommendation for development of Lake Naconiche as a source of water supply for the region and rural communities.⁴ Therefore, adding these purposes of use to the 9,072 acre-feet currently authorized for flood control and recreational purposes is consistent with the State and Regional water plans because it will provide the County flexibility to meet regional demands.

¹ Texas Water Development Board, *Water for Texas 2012: Summary of Region I*, pg. 81 (January 2012), available at http://www.twdb.texas.gov/publications/state_water_plan/2012/2012_SWP.pdf.

² *Id.* at pg. 82.

³ *Id.* at pg. 82-83.

⁴ Region I Water Planning Group, *Regional Water Plan for Region I, Chapter 4C: Water Management Strategies for Entities with an Identified Need*, pg. 4C-27 available at https://www.twdb.texas.gov/waterplanning/rwp/plans/2011/I/Region_I_2011_RWP.pdf

XI. Groundwater Assessment

No adverse impact to groundwater resources will result from the Application. The County is seeking to add municipal, agricultural, and industrial purposes of use to the Permit. The County is also seeking to add a diversion point on the perimeter of Lake Naconiche to divert up to 4,750 acre-feet of water on an annual basis. Because the Application seeks to use only surface water, there is no impact to groundwater resources.

XII. Impacts on Other Water Rights Holders or the Environment

The diversion point sought by this Application will have a minimal impact on other water rights users because the diversion impacts the period and volume reliability by only seven percent (7%). Additionally, only one water right holder, Permit 5629, will be impacted by the diversion point. The Application will also have minimal impact on the environment. For a full discussion of impacts to other water rights holders please see Exhibit 2, Section 4. See also Exhibit 2, Section 4.2 as well as Exhibit 6 to support the County's request to remove Special Condition Nos. 4(c) and 4(d) of the Permit and replace them with the SB3 flow requirements adopted in 30 TAC §298, Subchapter C.